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determination that no party will be prejudiced and that the ends of justice will be served thereby. These rules may, from time to time, be suspended, modified or revoked in whole or part.

§ 18.2 Definitions.

For purposes of these rules:

(a) *Adjudicatory proceeding* means a judicial-type proceeding leading to the formulation of a final order;

(b) *Administrative law judge* means an administrative law judge appointed pursuant to the provisions of 5 U.S.C. 3105 (provisions of the rules in this part which refer to administrative law judges may be applicable to other Presiding Officers as well);

(c) *Administrative Procedure Act* means those provisions of the Administrative Procedure Act, as codified, which are contained in 5 U.S.C. 551 through 559;

(d) *Complaint* means any document initiating an adjudicatory proceeding, whether designated a complaint, appeal or an order for proceeding or otherwise;

(e) *Hearing* means that part of a proceeding which involves the submission of evidence, either by oral presentation or written submission;

(f) *Order* means the whole or any part of a final procedural or substantive disposition of a matter by the administrative law judge in a matter other than rulemaking;

(g) *Party* includes a person or agency named or admitted as a party to a proceeding;

(h) *Person* includes an individual, partnership, corporation, association, exchange or other entity or organization;

(i) *Pleading* means the complaint, the answer to the complaint, any supplement or amendment thereto, and any reply that may be permitted to any answer, supplement or amendment;

(j) *Respondent* means a party to an adjudicatory proceeding against whom findings may be made or who may be required to provide *relief or take remedial action*;

(k) *Secretary* means the Secretary of Labor and includes any administrator, commissioner, appellate body, board, or other official thereunder for purposes of appeal of recommended or

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final decisions of administrative law judges;

(l) *Complainant* means a person who is seeking relief from any act or omission in violation of a statute, executive order or regulation;

(m) The term *petition* means a written request, made by a person or party, for some affirmative action;

(n) The term *Consent Agreement* means any written document containing a specified proposed remedy or other relief acceptable to all parties;

(o) *Commencement of Proceeding* is the filing of a request for hearing, order of reference, or referral of a claim for hearing.

§ 18.3 Service and filing of documents.

(a) *Generally*. Except as otherwise provided in this part, copies of all documents shall be served on all parties of record. All documents should clearly designate the docket number, if any, and short title of the matter. If the matter involves a program administered by the Office of Workers' Compensation Programs (OWCP), the document should contain the OWCP number in addition to the docket number. All documents to be filed shall be delivered or mailed to the Chief Docket Clerk, Office of Administrative Law Judges (OALJ), 800 K Street, NW., Suite 400, Washington, DC 20001-8002, or to the OALJ Regional Office to which the proceeding may have been transferred for hearing. Each document filed shall be clear and legible.

(b) *How made; by parties*. All documents shall be filed with the Office of Administrative Law Judges, except that notices of deposition, depositions, interrogatories, requests for admissions, and answers and responses thereto, shall not be so filed unless the presiding judge so orders, the document is being offered into evidence, the document is submitted in support of a motion or a response to a motion, filing is required by a specialized rule, or there is some other compelling reason for its submission. Whenever under this part service by a party is required to be made upon a party represented by an attorney or other representative the service shall be made upon the attorney or other representative unless service upon the party is ordered by

the presiding administrative law judge. Service of any document upon any party may be made by personal delivery or by mailing a copy to the last known address. The person serving the document shall certify to the manner and date of service.

(c) *By the Office of Administrative Law Judges.* Service of notices, orders, decisions and all other documents, except complaints, shall be made by regular mail to the last known address.

(d) *Service of complaints.* Service of complaints or charges in enforcement proceedings shall be made either: (1) By delivering a copy to the individual, partner, officer of a corporation, or attorney of record; (2) by leaving a copy at the principal office, place of business, or residence; (3) by mailing to the last known address of such individual, partner, officer or attorney. If done by certified mail, service is complete upon mailing. If done by regular mail, service is complete upon receipt by addressee.

(e) *Form of pleadings.* (1) Every pleading shall contain a caption setting forth the name of the agency under which the proceeding is instituted, the title of the proceeding, the docket number assigned by the Office of Administrative Law Judges, and a designation of the type of pleading or paper (e.g., complaint, motion to dismiss, etc.). The pleading or papers shall be signed and shall contain the address and telephone number of the party or person representing the party. Although there are no formal specifications for documents, they should be typewritten when possible on standards size (8½ × 11) paper legal size (8½ × 14) paper will not be accepted after July 31, 1983.

(2) Illegible documents, whether handwritten, typewritten, photocopied, or otherwise will not be accepted. Papers may be reproduced by any duplicating process, provided all copies are clear and legible.

(f) *Filing and service by facsimile—*(1) *Filing by a party; when permitted.* Filings by a party may be made by facsimile (fax) when explicitly permitted by statute or regulation, or when directed or permitted by the administrative law judge assigned to the case. If prior permission to file by facsimile

cannot be obtained because the presiding administrative law judge is not available, a party may file by facsimile and attach a statement of the circumstances requiring that the document be filed by facsimile rather than by regular mail. That statement does not ensure that the filing will be accepted, but will be considered by the presiding judge in determining whether the facsimile will be accepted *nunc pro tunc* as a filing.

(2) *Service by facsimile; when permitted.* Service upon a party by another party or by the administrative law judge may be made by facsimile (fax) when explicitly permitted by statute or regulation, or when the receiving party consents to service by facsimile.

(3) *Service sheet and proof of service.* Documents filed or served by facsimile (fax) shall include a service sheet which states the means by which filing and/or service was made. A facsimile transmission report generated by the sender's facsimile equipment and which indicates that the transmission was successful shall be presumed adequate proof of filing or service.

(4) *Cover sheet.* Filings or service by facsimile (fax) shall include a cover sheet that identifies the sender, the total number of pages transmitted, and the caption and docket number of the case, if known.

(5) *Originals.* Documents filed or served by facsimile (fax) shall be presumed to be accurate reproductions of the original document until proven otherwise. The party proffering the document shall retain the original in the event of a dispute over authenticity or the accuracy of the transmission. The original document need not be submitted unless so ordered by the presiding judge, or unless an original signature is required by statute or regulation. If an original signature is required to be filed, the date of the facsimile transmission shall govern the effective date of the filing provided that the document containing the original signature is filed within ten calendar days of the facsimile transmission.

(6) *Length of document.* Documents filed by facsimile (fax) should not exceed 12 pages including the cover sheet, the service sheet and all accompanying

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exhibits or appendices, except that this page limitation may be exceeded if prior permission is granted by the presiding judge or if the document's length cannot be conformed because of statutory or regulatory requirements.

(7) *Hours for filing by facsimile.* Filings by facsimile (fax) should normally be made between 8:00 am and 5:00 pm, local time at the receiving location.

(g) *Filing and service by courier service.* Documents transmitted by courier service shall be deemed transmitted by regular mail in proceedings before the Office of Administrative Law Judges.

[48 FR 32538, July 15, 1983, as amended at 56 FR 54708, Oct. 22, 1991; 59 FR 41876, Aug. 15, 1994; 60 FR 26970, May 19, 1995]

§ 18.4 Time computations.

(a) *Generally.* In computing any period of time under these rules or in an order issued hereunder the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday or legal holiday observed by the Federal Government in which case the time period includes the next business day. When the period of time prescribed is seven (7) days or less, intermediate Saturdays, Sundays, and holidays shall be excluded in the computation.

(b) *Date of entry of orders.* In computing any period of time involving the date of the entry of an order, the date of entry shall be the date the order is served by the Chief Docket Clerk.

(c) *Computation of time for delivery by mail.* (1) Documents are not deemed filed until received by the Chief Clerk at the Office of Administrative Law Judges. However, when documents are filed by mail, five (5) days shall be added to the prescribed period.

(2) Service of all documents other than complaints is deemed effected at the time of mailing.

(3) Whenever a party has the right or is required to take some action within a prescribed period after the service of a pleading, notice, or other document upon said party, and the pleading, notice or document is served upon said party by mail, five (5) days shall be added to the prescribed period.

(d) *Filing or service by facsimile.* Filing or service by facsimile (fax) is effective

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upon receipt of the entire document by the receiving facsimile machine. For purposes of filings by facsimile the time printed on the transmission by the facsimile equipment constitutes the date stamp of the Chief Docket Clerk.

[48 FR 32538, July 15, 1983, as amended at 59 FR 41877, Aug. 15, 1994]

§ 18.5 Responsive pleadings—answer and request for hearing.

(a) *Time for answer.* Within thirty (30) days after the service of a complaint, each respondent shall file an answer.

(b) *Default.* Failure of the respondent to file an answer within the time provided shall be deemed to constitute a waiver of his right to appear and contest the allegations of the complaint and to authorize the administrative law judge to find the facts as alleged in the complaint and to enter an initial or final decision containing such findings, appropriate conclusions, and order.

(c) *Signature required.* Every answer filed pursuant to these rules shall be signed by the party filing it or by at least one attorney, in his or her individual name, representing such party. The signature constitutes a certificate by the signer that he or she has read the answer; that to the best of his or her knowledge, information and belief there is good ground to support it; and that it is not interposed for delay.

(d) *Content of answer—(1) Orders to show cause.* Any person to whom an order to show cause has been directed and served shall respond to the same by filing an answer in writing. Arguments opposing the proposed sanction should be supported by reference to specific circumstances or facts surrounding the basis for the order to show cause.

(2) *Complaints.* Any respondent contesting any material fact alleged in a complaint, or contending that the amount of a proposed penalty or award is excessive or inappropriate or contending that he or she is entitled to judgment as a matter of law, shall file an answer in writing. An answer shall include:

(i) A statement that the respondent admits, denies, or does not have and is unable to obtain sufficient information to admit or deny each allegation; a